

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Conor O'Shea	Team: Squad #05	CCRB Case #: 201907553	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/23/2019 5:30 PM	Location of Incident: § 87(2)(b) 71st Precinct stationhouse	Precinct: 71	18 Mo. SOL 2/23/2021	EO SOL 10/10/2021	
Date/Time CV Reported Mon, 08/26/2019 10:05 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/26/2019 10:05 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Daniel Guida	00000	941862	071 PCT
2. POM Denzil Trim	14723	956307	071 PCT
3. DTS Paul Parkinson	00733	935466	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Mario Altilio	00653	953633	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Paul Parkinson	Discourtesy: In front of § 87(2)(b) in Brooklyn, Detective Paul Parkinson spoke discourteously to § 87(2)(b)	§ 87(2)(b)
B.DTS Paul Parkinson	Abuse: In front of § 87(2)(b) in Brooklyn, Detective Paul Parkinson threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.POM Denzil Trim	Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim stopped § 87(2)(b)	§ 87(2)(b)
D.POM Denzil Trim	Force: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim pointed his gun at § 87(2)(b)	§ 87(2)(b)
E.POM Denzil Trim	Discourtesy: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim spoke discourteously to § 87(2)(b)	§ 87(2)(b)
F.LT Daniel Guida	Abuse: Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida threatened to arrest § 87(2)(b)	§ 87(2)(b)
G.LT Daniel Guida	Abuse: Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida threatened to seize § 87(2)(b) property.	§ 87(2)(b)
H.LT Daniel Guida	Abuse: Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida did not process § 87(2)(b) complaint regarding officers.	§ 87(2)(b)
I.LT Daniel Guida	Discourtesy: Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.POM Denzil Trim	Untruthful Stmt.: Police Officer Denzil Trim provided a false official statement to the CCRB.	

Case Summary

On August 26, 2019, § 87(2)(b) filed this complaint by phone with the CCRB.

On August 23, 2019, shortly before 5:30 p.m., § 87(2)(b) drove his car out of its leasing office's garage at § 87(2)(b) in Brooklyn. Detective Paul Parkinson of the 71st Precinct drove up behind § 87(2)(b) in his personal vehicle and began honking and yelling at him. Det. Parkinson was off-duty and driving to work at the nearby 71st Precinct stationhouse. § 87(2)(b) pulled to the side of the road to let Det. Parkinson pass, but inadvertently blocked the entrance to the stationhouse parking lot that Det. Parkinson tried to enter. Det. Parkinson pulled up next to § 87(2)(b) and allegedly yelled, "Get the fuck out of the road" (**Allegation A: Discourtesy, § 87(2)(g)**). Det. Parkinson exited his vehicle, approached § 87(2)(b) car, and tried pulling on the locked driver's door handle while still yelling. Det. Parkinson allegedly yelled, "Get out, motherfucker. Let me fuck you up" (**Subsumed within Allegation A; Allegation B: Abuse of Authority, § 87(2)(g)**).

Meanwhile, Det. Parkinson's partner—Police Officer Denzil Trim, also of the 71st Precinct—was already on-duty and taking a phone call in the nearby stationhouse parking lot. Noticing the commotion, PO Trim approached § 87(2)(b) car on the passenger side. PO Trim stopped § 87(2)(b) and pointed his gun at him through the open car window (**Allegation C: Abuse of Authority, § 87(2)(g)**). **Allegation D: Force, § 87(2)(g)** PO Trim allegedly asked § 87(2)(b) "what the fuck" he was doing (**Allegation E: Discourtesy, § 87(2)(g)**). Shortly thereafter, § 87(2)(b) drove off without being arrested or issued any summonses. Det. Parkinson drove into the parking lot, and he and PO Trim entered the stationhouse.

§ 87(2)(b) parked his car nearby and immediately went to the 71st Precinct stationhouse to file a complaint. Lieutenant Daniel Guida of the 71st Precinct brought § 87(2)(b) to a room and allegedly threatened to arrest him and tow his car if he did not drop his complaint (**Allegations F–G: Abuse of Authority, § 87(2)(g)**). Lt. Guida refused to process § 87(2)(b) complaint (**Allegation H: Abuse of Authority, § 87(2)(g)**). Lt. Guida allegedly used the word "fuck" in telling § 87(2)(b) to leave the stationhouse, and allegedly threatened to arrest him again (**Allegation I: Discourtesy, § 87(2)(g)** subsumed within Allegation F). § 87(2)(b) left the stationhouse without being arrested or issued any summonses.

PO Trim made false official statements during his CCRB interview (**Allegation J: Untruthful Statement, § 87(2)(g)**).

The investigation obtained surveillance footage from the leasing office (relevant videos at **Board Review 01–03**, summarized at **Board Review 04**) and surveillance footage from the 71st Precinct stationhouse (**Board Review 05–06**, summarized at **Board Review 07**). There is no BWC footage of this incident (**Board Review 08**). Det. Parkinson and PO Trim were not yet in uniform and were not wearing BWCs during the initial confrontation outside the stationhouse. The subsequent portions of the incident took place inside the stationhouse, where Lt. Guida was also just starting his tour, was not dressed in uniform, and was not wearing a BWC. All timestamps referring to video footage refer to the timestamp in the video player rather than any on-screen clocks embedded in the footage itself.

This case was reassigned from Inv. Andrew Ridge to the undersigned on August 24, 2020. The COVID-19 global pandemic and issues with remote MOS interviews delayed this investigation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Discourtesy: In front of § 87(2)(b) in Brooklyn, Detective Paul Parkinson spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Detective Paul Parkinson threatened § 87(2)(b) with the use of force.

Allegation (E) Discourtesy: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim spoke discourteously to § 87(2)(b)

It is undisputed that Det. Parkinson remonstrated with § 87(2)(b) at his driver's window, and it is undisputed that PO Trim spoke to § 87(2)(b) at the front passenger window. The exact contents of the officers' conversation with § 87(2)(b) are in dispute.

The incident began when § 87(2)(b) was obtaining the TLC vehicle he leases from § 87(2)(b) at § 87(2)(b) which is directly next door to the 71st Precinct stationhouse and the entrance to its rear parking lot. Surveillance footage from § 87(2)(b) captures this portion of the incident in its entirety. The footage has no audio. Beginning at 01:22 in the first of two videos (**Board Review 01**), the footage shows that § 87(2)(b) backed his car out of the garage and onto Empire Boulevard before slowly driving westbound and away from the camera. The stationhouse parking lot is off-screen from the top right corner of the video frame. § 87(2)(b) then came to a momentary stop in the street as Det. Parkinson pulled up behind him in a dark-colored SUV. § 87(2)(b) turned to the right and pulled alongside to the curb—inadvertently blocking the entrance to the stationhouse parking lot, which is where Det. Parkinson was apparently trying to go. Det. Parkinson parked his SUV in the middle of the only westbound lane before exiting his car. Dressed in shorts and a t-shirt, Det. Parkinson walked around to § 87(2)(b) driver's door and began pulling on the door handle repeatedly to no avail. PO Trim, a tall Black man wearing a black t-shirt, then walked over from the top right corner of the screen as he came from the stationhouse parking lot. PO Trim approached § 87(2)(b) passenger side before eventually walking around to the driver's side, which is when the first video ends.

The second video (**Board Review 02**) begins almost immediately after the first video, and shows that Det. Parkinson re-entered his vehicle after about a minute. § 87(2)(b) drove away as PO Trim returned to the stationhouse parking lot and Det. Parkinson drove into the parking lot. During the incident, Det. Parkinson's SUV blocked westbound vehicular traffic and caused several vehicles behind him to stop in the street.

§ 87(2)(b) (**Board Review 11**) recounted that Det. Parkinson yelled and gesticulated at him when he first pulled alongside his vehicle. From inside of his vehicle, Det. Parkinson told § 87(2)(b) "Get the fuck out of the road." When Det. Parkinson approached § 87(2)(b) window, Det. Parkinson remarked that § 87(2)(b) had not responded to him. Det. Parkinson banged on the car window, tried to open the door, and said, "Get out, motherfucker. Let me fuck you up." § 87(2)(b) further recounted that PO Trim repeatedly asked him questions that included profanity, specifically the phrase "what the fuck," along the lines of "What the fuck were you doing to my partner?" or "What the fuck are you trying to do?"

The sole bystander the investigation could identify was § 87(2)(b) a manager at § 87(2)(b) who did not know § 87(2)(b) prior to the incident. The investigation interviewed § 87(2)(b) approximately three and a half months after the incident (**Board Review 12**). He recounted that he was inside of his upstairs office when he heard § 87(2)(b) and Det. Parkinson yelling at each other. § 87(2)(b) was not sure about the subject or content of Det. Parkinson and § 87(2)(b) dispute as he approached the scene, but both § 87(2)(b) and Det. Parkinson appeared to be "pissed." § 87(2)(b) described § 87(2)(b) and Det. Parkinson as speaking in a Jamaican language. § 87(2)(b) initially said he could not understand what they were saying to each other and that it was possible they were both "exchanging curses," but later noted that he did not want to definitively say that he heard them exchanging curses as he could not remember that for certain. § 87(2)(b) initially said he did not hear Det. Parkinson or PO Trim make any threats of force, but later clarified that it

was possible such threats occurred prior to when he approached the scene.

PO Trim was interviewed approximately 16 months after the incident (**Board Review 13**). PO Trim recounted that when he approached § 87(2)(b) car, Det. Parkinson was “just talking” to § 87(2)(b). PO Trim was entirely unable to remember anything Det. Parkinson was saying during the verbal dispute with § 87(2)(b). PO Trim denied hearing Det. Parkinson say, “Get the fuck out of the road,” “Get out, motherfucker,” or “Let me fuck you up” specifically. PO Trim denied hearing Det. Parkinson use the word “fuck” in any context, and denied hearing him use any profanity whatsoever. PO Trim believed that he and Det. Parkinson both spoke to § 87(2)(b) in a “very professional” manner. PO Trim also used “very mellow tones” throughout the “entire time” he was speaking with § 87(2)(b). PO Trim denied using any profanity with § 87(2)(b) in general and denied specifically saying, “What the fuck are you trying to do?” or “What the fuck are you doing to my partner?” PO Trim denied ever using the word “fuck” in any context. § 87(2)(b) was the only one who was combative during the incident.

§ 87(2)(g)

§ 87(2)(b) testimony that Det. Parkinson was yelling at § 87(2)(b) and arguing with him certainly indicates that PO Trim was not correct in recounting that § 87(2)(b) was the only combative party during the incident. However, absent additional evidence, the investigation could not determine whether the officers made the alleged profane statements or whether Det. Parkinson threatened § 87(2)(b) with the use of force.

§ 87(2)(g)

Allegation (C) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim stopped § 87(2)(b)

Allegation (D) Force: In front of § 87(2)(b) in Brooklyn, Police Officer Denzil Trim pointed his gun at § 87(2)(b)

It is undisputed that § 87(2)(b) used at least some profanity in speaking with the officers and in arguing with Det. Parkinson. It is also undisputed that PO Trim drew his firearm during the encounter.

§ 87(2)(b) (**Board Review 11**) recounted that when Det. Parkinson came up to his window yelling and cursing at him, he began looking for his cell phone so that he could call 911, as he did not know that Det. Parkinson was an officer. § 87(2)(b) phone was not in its usual dashboard mount. Det. Parkinson’s behavior was distracting § 87(2)(b) while he looked for his cell phone and made it difficult for him to locate it. § 87(2)(b) did not remember where his phone was, but believed it may have been on his seat. Almost immediately after Det. Parkinson arrived at his driver’s side window, PO Trim approached on the passenger’s side. PO Trim pointed a black handgun through the halfway-open front passenger’s window.

In a follow-up telephone statement (**Board Review 14**) approximately five months after the incident and approximately four-and-a-half months after his CCRB interview, § 87(2)(b) testified that besides telling him to get out of the car, Det. Parkinson and PO Trim did not give him any other commands. § 87(2)(b) could not remember specific places within his car that he searched for his phone. § 87(2)(b) could not remember where his hands were when he was dealing with the officers because there was so much going on. The officers never asked to see § 87(2)(b) hands.

§ 87(2)(b) (**Board Review 12**) recounted that he was standing a few feet away from § 87(2)(b) car when he saw PO Trim pointing a gun at § 87(2)(b). § 87(2)(b) believed that PO Trim was telling § 87(2)(b) in English to show him his hands. § 87(2)(b) did not remember any physical actions § 87(2)(b) took in response to PO Trim’s possible command of telling him to show his hands. § 87(2)(b) appeared to not know what the officers wanted. § 87(2)(b) initially thought that

§ 87(2)(b) “probably was” moving his hands and thought § 87(2)(b) might have been shifting his car’s gearshift into park around the time PO Trim was pointing a gun at him. § 87(2)(b) believed that at least one of § 87(2)(b) hands was near the car’s gear shifter, and that § 87(2)(b) did not move his hands in response to PO Trim ordering him to show his hands.

The surveillance footage (**Board Review 01**, beginning at 02:44) shows that, upon reaching § 87(2)(b) front passenger door, PO Trim reached his right hand towards his right hip area and obtained a dark, L-shaped object—consistent with a handgun—from his hip holster area. PO Trim leaned forward and put his right hand, still holding the object, through § 87(2)(b) car window, which was partially lowered. The footage further shows that PO Trim’s right arm was inside the car for a few seconds before he reached in with his left arm as well. As PO Trim walked around the front of § 87(2)(b) car to the driver’s side, the footage appears to show that he holstered his gun.

The investigation created a zoomed-in subclip of the relevant portion of this video footage, available at **Board Review 15**. From this zoomed-in subclip, the investigation also compiled a series of screenshots that collectively show PO Trim drawing his gun and putting it into the car (**Board Review 16**), bringing the gun back down to his leg after taking it out of the car (**Board Review 17**), and then holstering the gun as he walks back around the front of the car (**Board Review 18**). Two screenshots in particular (**Board Review 19–20**) confirm that the object in PO Trim’s hand during this time is a dark, L-shaped object consistent with a handgun.

PO Trim’s memo book entry from this incident (page 3 of the PDF at **Board Review 21**) reads [*sic*]: “At approximately 1727 hours as I was standing in the precinct parking lot on a phone call, I observed my partner, Det Parkinson, in a verbal dispute with an unknown male on Empire Blvd just outside the back gate of the precinct parking lot. I walked up to the vehicle and told the unknown male I am a police officer and he should lower his voice. The male was speaking in an irate tone of voice and I asked the unknown male to step out his vehicle so we can speak and try to resolve the matter and he then began to reach into the under console of the vehicle. Fearing for my safety, *I drew my firearm and held it to the side of hip* because it was unknown what the unknown male was reaching for. The male was told to stop reaching and he drove off in an irate manner” (italics added for emphasis).

PO Trim (**Board Review 13**) recounted that he was approximately six car lengths away in the parking lot when he first noticed the dispute between § 87(2)(b) and Det. Parkinson. PO Trim did not know what was going on between § 87(2)(b) and Det. Parkinson besides it being a verbal dispute, and he was unable to hear anything they were saying to each other. PO Trim never suspected § 87(2)(b) of doing anything unlawful and only approached the car to determine why § 87(2)(b) was yelling to hopefully mediate the dispute. Det. Parkinson never communicated anything to PO Trim. Initially, PO Trim was “concerned” because he saw someone he did not know engaging in a “very intense and irate” dispute with his partner.

Upon approach, PO Trim identified himself to § 87(2)(b) as a police officer and ordered him to exit the car so they could resolve the matter at hand. PO Trim’s intent was not to conduct a traffic or pedestrian stop of § 87(2)(b) but rather to resolve the dispute. During this time, § 87(2)(b) began reaching “under by the, you know, by the seat,” which PO Trim clarified to mean reaching towards the area underneath the driver’s seat. PO Trim did not remember which hand § 87(2)(b) was reaching with, or whether he was reaching with one hand or two. PO Trim was unable to see what, if anything, was underneath the driver’s seat. Before this, PO Trim did not see any weapons or contraband inside the car. PO Trim did not see anything on § 87(2)(b) person that made PO Trim believe that § 87(2)(b) was armed, nor did PO Trim see anything in § 87(2)(b) hands.

Based solely on § 87(2)(b) verbal combativeness, his irate manner, and his reaching movements, PO Trim feared for his and Det. Parkinson’s safety. PO Trim did not specifically articulate that he believed § 87(2)(b) was armed or reaching for a weapon. Instead, PO Trim explained that he feared for his and Det. Parkinson’s safety because he did not know what to expect. Given this fear, PO Trim drew his gun and repeatedly ordered § 87(2)(b) to “stop

reaching.” The gun PO Trim had at the time was his off-duty gun, which he described as a black Sig Sauer.

Initially, PO Trim testified that he drew his gun and “put it at [his] hip.” During later questioning, PO Trim maintained that he held his gun at his hip, pointed downwards, and did not point the gun at § 87(2)(b). After viewing the surveillance footage, PO Trim explicitly denied that it showed him pointed his gun at § 87(2)(b). He believed that it showed him telling § 87(2)(b) to put his window down, rather than him reaching into the car through the window. PO Trim testified that he could not discern from the footage whether he reached into the car, and he did not independently remember doing so. PO Trim was subsequently shown the video footage multiple times and given additional opportunities to provide testimony on the footage’s contents. When informed that it was alleged that he pointed a gun at § 87(2)(b) during the time period depicted in the video, and asked directly if that was happened, PO Trim replied, “Not that I recall, sir, to be honest.” He later clarified that his response meant, “I don’t recall.”

The video footage is entirely consistent with § 87(2)(b) testimony, as it shows PO Trim drawing a firearm, pointing it in § 87(2)(b) direction, and sticking it through the open window of his vehicle. Moreover, § 87(2)(b) an independent bystander, similarly testified to seeing PO Trim point his gun at § 87(2)(b). As a result, the investigation determined by a preponderance of the evidence that PO Trim did point his firearm at § 87(2)(b).

A Level 3 stop is any encounter between a civilian and an officer “in which a reasonable person would not feel free to disregard the officer and walk away.” Such a stop “may be conducted only when a police officer has individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor.” An officer has reasonable suspicion sufficient for a Level 3 stop when the officer possesses information that “would make an ordinarily prudent and cautious police officer under the circumstances believe that a felony or Penal Law misdemeanor has been, is being or is about to be committed. The officer must have a particularized and objective basis for suspecting the person stopped of the criminal conduct. The officer must be able to articulate specific facts establishing justification for the stop; hunches or gut feelings are not sufficient.” NYPD Patrol Guide Procedure 212-11 (Board Review 22).

“Drawing a firearm prematurely or unnecessarily limits a uniformed member’s options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of service will holster the firearm as soon as practicable.” Deadly physical force “can only be used to protect MOS and/or the public from imminent serious physical injury or death.” NYPD Patrol Guide Procedure 221-01 (Board Review 23).

The investigation determined that PO Trim’s encounter with § 87(2)(b) amounted to a Level 3 stop because a reasonable person in § 87(2)(b) position would not have felt free to disregard PO Trim and terminate the encounter. PO Trim displayed multiple forms of his authority: he identified himself as a police officer, he gave § 87(2)(b) multiple commands—both to exit the car so they could talk, and to stop reaching with his hands—and, most significantly, he pointed his gun at § 87(2)(b). No reasonable person in § 87(2)(b) position would have felt free to drive away or otherwise leave the scene while a police officer pointed a gun at him and told him to exit his car. Regardless of whether PO Trim initially approached § 87(2)(b) with the sole intention of mediating the dispute between § 87(2)(b) and Det. Parkinson, PO Trim escalated the encounter to a Level 3 stop as defined by Patrol Guide Procedure 212-11.

PO Trim explicitly acknowledged in his testimony that he never suspected § 87(2)(b) of doing anything unlawful. He was concerned by § 87(2)(b) making vague reaching motions toward the area beneath the driver’s seat, but he could not even articulate what he thought was beneath the seat, and he specifically did not articulate any facts that suggested § 87(2)(b) had a weapon under

the seat. PO Trim had no reason to suspect § 87(2)(b) of possessing any weapons and did not make any observations to suggest that he was armed. Instead, PO Trim's concern about the reaching relied only on the general possibility that anyone could have anything under the front seat of their car. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) PO Trim did not testify that he actually believed § 87(2)(b) was armed during the incident, and he specifically testified that he never suspected § 87(2)(b) of doing anything unlawful. PO Trim had no specific reason to believe that § 87(2)(b) was armed or dangerous, or that he posed any kind of safety threat besides being in an argument with Det. Parkinson. § 87(2)(g)

§ 87(2)(g) He certainly did not have sufficient reason to believe § 87(2)(b) posed an imminent risk of serious physical injury or death to himself, to Det. Parkinson, or to any member of the public. Det. Parkinson's position directly behind § 87(2)(b) further underscores the unreasonableness of PO Trim's decision to point his gun at § 87(2)(b) as the Patrol Guide notes, Det. Parkinson would have been in the line of fire if PO Trim had accidentally discharged his firearm.

§ 87(2)(g)

Allegation (F) Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida threatened to arrest § 87(2)(b)

Allegation (G) Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida threatened to seize § 87(2)(b) property.

Allegation (H) Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida refused to process § 87(2)(b) complaint.

Allegation (I) Discourtesy: Inside the 71st Precinct stationhouse, Lieutenant Daniel Guida spoke discourteously to § 87(2)(b)

It is undisputed that § 87(2)(b) went to the stationhouse shortly after the incident to complain about Det. Parkinson and PO Trim, that he initially spoke to Sgt. Altilio at the main desk, and that Sgt. Altilio directed him to speak to Lt. Guida. Lt. Guida was the Special Operations Lieutenant and oversaw Det. Parkinson and PO Trim in their roles as Neighborhood Coordination Officers, and he was just signing in to begin his tour at the time. It is further undisputed that Lt. Guida and § 87(2)(b) briefly spoke in a separate room alone, that Lt. Guida eventually ordered § 87(2)(b) to leave and escorted him out of the stationhouse, and that no officer prepared a complaint report for § 87(2)(b). The exact nature of Lt. Guida's statements to § 87(2)(b) are in dispute, as is the reason why § 87(2)(b) ultimately left without filing a complaint.

The surveillance footage (interior camera at **Board Review 06**, between 29:50 and 53:18) shows § 87(2)(b) entering the civilian waiting area and speaking to officers. The angle of the camera is such that the officer or officers to whom § 87(2)(b) is speaking are not visible. The footage has no audio. § 87(2)(b) initially made comments to off-screen officers, then waited for a few minutes, and then spoke for a few minutes to Sgt. Altilio. § 87(2)(b) continued waiting for a period of time, during which PO Trim emerged from within the stationhouse and gestured in an apparent attempt to get § 87(2)(b) to leave the stationhouse with him. § 87(2)(b) refused, PO Trim left, and § 87(2)(b) eventually left the waiting area to move deeper inside the stationhouse. Approximately five minutes later, § 87(2)(b) came back into view in the civilian waiting area, and Lt. Guida escorted him out of the stationhouse (at approximately 53:00 in **Board Review 06**). There are no camera angles capturing § 87(2)(b) during the five minutes when he went deeper

inside the stationhouse.

§ 87(2)(b) (**Board Review 11**) recounted that he initially came to the stationhouse to report the incident without knowing that Det. Parkinson and PO Trim were officers, but that he realized they were officers when he saw them inside the stationhouse. His description of his time inside the stationhouse was consistent with the surveillance footage, and his testimony clarified that PO Trim told him that he wanted to speak to him and asked him to step outside to do so. With regard to his interaction with Lt. Guida, § 87(2)(b) recounted that Lt. Guida invited him to a side room, provided his name, and asked him to explain what happened. However, Lt. Guida soon interrupted him, made some reference to having seen “the camera,” and noted that § 87(2)(b) had been double-parked. § 87(2)(b) argued with Lt. Guida and felt that Lt. Guida thought he was lying, and he told Lt. Guida that there was no reason for them to speak if Lt. Guida did not believe him. Lt. Guida then allegedly told § 87(2)(b) he could “let [the incident] go” and leave, or he would be arrested and his car would be towed. § 87(2)(b) told Lt. Guida that he would not be intimidated, and § 87(2)(b) stated his intention to end the conversation and leave. When § 87(2)(b) reached the civilian waiting area, he called out to Sgt. Altilio, and Lt. Guida interrupted. § 87(2)(b) initially alleged that Lt. Guida said, “Didn’t I tell you to leave the fucking precinct?” § 87(2)(b) later stated that Lt. Guida told him, “Get the fuck out of the precinct. I already told you I’m gonna lock you up now.” Lt. Guida then physically escorted him out of the stationhouse.

Sgt. Altilio wrote in his memo book regarding this incident (**Board Review 26**) that a civilian walk-in wanted to file a complaint against PO Trim and Det. Parkinson, that Lt. Guida was notified at the desk, that Lt. Guida interviewed the civilian in the muster room, and that Lt. Guida advised that he would handle the matter. Lt. Guida’s memo book notes only that there was a disorderly man at the stationhouse, that it was a non-crime issue that was handled, and that he then resumed his tour (**Board Review 24**).

It should be noted that none of the officers was interviewed until approximately 16 months after the incident. Sgt. Altilio (**Board Review 27**) recounted that § 87(2)(b) began yelling at Det. Parkinson and PO Trim shortly after he entered the stationhouse. Sgt. Altilio spoke briefly to PO Trim, who told him that he had merely asked § 87(2)(b) to move because he had been blocking the entrance to the stationhouse parking lot. Sgt. Altilio then spoke to § 87(2)(b) and learned that there had been some altercation at the lot. Sgt. Altilio saw Lt. Guida signing in for duty and referred the issue to him because he was a lieutenant and he directly supervised the officers involved. Lt. Guida said he would handle the situation, so Sgt. Altilio felt it was no longer his responsibility to address any complaint which § 87(2)(b) wished to file. When § 87(2)(b) later emerged from his private conversation with Lt. Guida, he requested Sgt. Altilio’s name and shield number and then exited the stationhouse. Sgt. Altilio could not recall § 87(2)(b) demeanor at that time, and he had no recollection of seeing Lt. Guida escort § 87(2)(b) out. Sgt. Altilio did not hear Lt. Guida make any of the alleged threats or profane statements.

At the time of his CCRB interview, PO Trim had no recollection of § 87(2)(b) coming to the stationhouse at all. He correctly identified himself in the stationhouse footage but maintained that he had no independent recollection of interacting with § 87(2)(b) inside the stationhouse.

Lt. Guida stressed in his CCRB testimony that he did not have a strong recollection of the incident, owing to the great length of time between the incident and his interview (**Board Review 25**). He described § 87(2)(b) as “kind of irate,” “a little boisterous,” and both “kind of loud” and “quite loud.” Lt. Guida could not recall any specifics of his conversation with § 87(2)(b). Lt. Guida could only discern that § 87(2)(b) was complaining about a traffic or parking dispute he had with Det. Parkinson and PO Trim. Lt. Guida believed this dispute possibly involved § 87(2)(b) being double-parked or parked in a driveway, Det. Parkinson or PO Trim asking him to move his car, and him either refusing to do so or explaining why he could not do so. Lt. Guida denied that § 87(2)(b) ever mentioned an officer drawing or pointing a gun during the incident, and denied ever becoming aware of PO Trim drawing or pointing his gun.

Lt. Guida was not sure exactly what the substance of § 87(2)(b) issue was, and § 87(2)(b)

seemed to be “really just ranting.” Lt. Guida did not remember § 87(2)(b) specifically mentioning wanting to file a complaint about the incident. When asked what he believed § 87(2)(b) was trying to accomplish by coming to the stationhouse, Lt. Guida said, “Again, I don’t remember the specifics of what he said. All I can remember is just him being upset and me trying to get out of him what was going on and why he was being loud,” and not having success doing that. § 87(2)(b) loud ranting prevented Lt. Guida from learning what happened and why § 87(2)(b) was complaining about it.

Lt. Guida denied telling § 87(2)(b) that he needed to let the complaint go or that he needed to drop the complaint. Lt. Guida denied telling § 87(2)(b) that if he did not drop the complaint, Lt. Guida would arrest him or tow his car. When Lt. Guida was asked if he said anything to § 87(2)(b) about arresting him or towing his car at any point, Lt. Guida said, “Not that I remember.” When asked to explain what that response meant, Lt. Guida said, “I don’t remember—I do not remember anything that we said to each other specifically; I could not tell you any of the specifics of our conversation. I have a very, very vague recollection of this, just that this occurred and the very basics of the situation. This was so long ago.”

Lt. Guida described § 87(2)(b) as being not “very receptive” to Lt. Guida’s assistance. After “a couple minutes” of “brief” conversation with § 87(2)(b) Lt. Guida felt he was still unable to get § 87(2)(b) “under control” or reason with him. Accordingly, Lt. Guida told § 87(2)(b) that it was time for him to leave the stationhouse. When asked how § 87(2)(b) responded to this, Lt. Guida said he just remembered § 87(2)(b) being loud and upset during their entire conversation. Lt. Guida did not remember how § 87(2)(b) responded to the order to leave the stationhouse, beyond that he initially verbally refused to leave before acquiescing when Lt. Guida insisted. Lt. Guida ordered § 87(2)(b) to leave the stationhouse solely because § 87(2)(b) was not cooperating while continuing to be loud, at which point he was disrupting the stationhouse’s business operations. Lt. Guida could not reason with § 87(2)(b) and therefore § 87(2)(b) had no legitimate business at the stationhouse, and instead was just being loud and disruptive, so he needed to leave. Lt. Guida did not remember if he said anything to § 87(2)(b) while escorting him out of the stationhouse. Lt. Guida did not remember if he said, “Didn’t I tell you to leave the fucking precinct?” to § 87(2)(b) while escorting him outside. Lt. Guida responded, “Not that I remember,” when asked if he told § 87(2)(b) to “Get the fuck out of the precinct” or “I already told you I’m gonna lock you up.” Lt. Guida again replied, “Not that I remember,” when asked if he used the word “fuck” or mentioned locking up or arresting § 87(2)(b) at any point in any context.

§ 87(2)(g)

Allegation (K) Untruthful Statement: Police Officer Denzil Trim provided a false official statement to the CCRB.

As previously noted, § 87(2)(b) (Board Review 11) and § 87(2)(b) (Board Review 12) testified in their sworn CCRB interviews that PO Trim pointed his gun directly at § 87(2)(b) once he approached the car. Surveillance footage (original video at Board Review 01, between 01:22

and end of video; cropped and zoomed-in version at **Board Review 15**, entire clip) shows that PO Trim approached § 87(2)(b) car from the passenger's side and within seconds of arriving drew an object consistent with the shape of a handgun from his right hip—his shooting side, where his gun was holstered—with his right hand. The footage further shows that PO Trim then raised the gun-shaped object above hip level and pointed it into the car through the open front passenger's side window, ostensibly at § 87(2)(b). Given § 87(2)(b) testimony, § 87(2)(b) testimony, and the contents of the footage itself, the investigation credited that the object in PO Trim's hand was in fact his handgun. As PO Trim walked away from the passenger side, he apparently put that object—the gun—towards his right hip, as if he were holstering it, and then did not appear to have it in his hands again. The investigation credits that this was when PO Trim holstered his gun.

PO Trim wrote in his memo book regarding this incident (page 3 of the PDF at **Board Review 21**): "...drew my firearm and held it to the side of hip because it was unknown what the unknown male was reaching for. The male was told to stop reaching and he drove off in an irate manner." There are three separate portions in PO Trim's CCRB testimony (**Board Review 13**) of note here. They are presented verbatim below with time stamp citations to the interview audio.

First, PO Trim provided an initial narrative at the beginning of his CCRB interview, prior to any follow-up questioning and before being shown any video footage. Between 07:55 to 09:05 in the interview audio, the following verbatim exchange occurred:

Inv. O'Shea: "So, directing your attention to about 5:27 p.m. by your memo book, on August 23rd, 2019, can you please just explain to me what happened start to finish in as much detail as you can?"

PO Trim: Yeah, so, I was—I came to work, walked in the building, stepped back out to take a phone call. And while I was on my phone call, I, I hear a verbal dispute going on in the back—by the back gate. So, I see my partner, so I walk out to see what was going on. And there's a, you know, like a verbal dispute, so of course I recognize my partner. So, I'm telling the—the other person to, you know, "Calm down, step out," you know, "Let's work it out." He began being combative, cursing out, using all kinds of "bomboclat" this and "F you, fuck you," whatever. I said, "I'm a police officer," you know, "Let's try to resolve this." He continued to curse me out or whatever. While I'm talking to this guy he starts, you know, cursing whatever, starts reaching under by the, you know, by the seat and I'm—I don't know what he's reaching for, so for fear of my safety, I just pulled my gun, put it at my hip, I said, "Stop reaching, stop reaching, stop reaching" and then he just drove off in an irate manner.

Second, PO Trim provided additional testimony upon further follow-up questioning, before being shown any video footage of the incident. Between 24:03 and 25:23 in the interview audio, the following verbatim exchange occurred:

Inv. O'Shea: And so when you drew your gun, what did you do with it after taking it out of the holster?

PO Trim: I held it by my hip.

Inv. O'Shea: And you're just indicating holding it by your right side.

PO Trim: Yes, mm-hmm (affirmative response).

Inv. O'Shea: And so, where was the gun pointing?

PBA Representative: He's indicating holding (inaudible) facing down.

Inv. O'Shea: Okay, so you're indicating pointing the gun down to the ground?

PO Trim: Mm-hmm (affirmative response).

Inv. O'Shea: And did you ever move the gun into a different position besides at your side, pointing down?

PO Trim: Not that I recall.

Inv. O'Shea: Okay, did you ever point the gun at § 87(2)(b) directly?

PO Trim: I don't recall doing that.

Inv. O'Shea: And when you say you "don't recall doing that," does that mean that it's

possible and you don't remember one way or the other? Or are you saying (inaudible)—

PO Trim: I didn't point it at him.

Inv. O'Shea: Okay, understood.

PBA Representative: Would you say, cause you're saying you don't recall—you may have done it, is that what you're saying?

PO Trim: (inaudible) probably.

PBA Representative: You think you did it?

PO Trim: But I don't think I did that.

Inv. O'Shea: Sorry, I just—you just said "probably." And what were you saying "probably" to?

PO Trim: I—I ain't point the gun at him. I held the gun at my hip.

Inv. O'Shea: Okay.

PO Trim: That's what happened.

Inv. O'Shea: Sure. And did you ever point either of your hands at him even if you weren't holding a gun in the hand?

PO Trim: No.

Inv. O'Shea: Okay, did you ever reach into his car at any point?

PO Trim: No.

Third, PO Trim provided testimony while reviewing the surveillance footage in **Board Review 01** (between the 02:43 mark in the video player and the end of the video). This entire portion of PO Trim's testimony occurred between 47:47 and 52:16 in the interview audio. Specific verbatim exchanges are detailed below where necessary. Starting at 48:19 in the interview audio, PO Trim was shown the relevant portion of the footage twice. Between 49:01 and 49:14 in the interview audio, the following verbatim exchange occurred:

Inv. O'Shea: Okay, so I paused it at the 02:54 mark. It appears that you just reached an arm inside of the car. Is that what happened during this time?

PO Trim: Uh, I didn't recall that happening.

At the request of PO Trim's legal counsel, the video was played again. PO Trim stated that it looked like he was telling § 87(2)(b) to put the window down, denied that he went fully into the car, and explained that he was not able to tell from the video if he reached into the car. Between 50:14 and 50:44, the following verbatim exchange occurred:

Inv. O'Shea: And so, even if you can't tell based on the video, does watching the video jog your own memory and are you able to say, based on—

PO Trim: Yeah, that's what I'm saying, I don't remember reaching into his car.

Inv. O'Shea: Sure, okay. So, at this point in the video, in the portion we just watched, it also appeared that you were removing an object from where the right-side holster would've been, and were then holding an object when you were pointing towards the car. Was that—does the video show you pointing the gun at § 87(2)(b)?

PO Trim: No.

Upon reviewing the video another time, PO Trim said he could not tell whether the footage showed him holding a firearm. Between 51:17 and 52:14, upon another review of the video, the following verbatim exchange occurred:

Inv. O'Shea: So, I'm just gonna go back to the 02:49 mark and I'm gonna try and get a good frame—frame to pause it at. Okay, so here we are at the 02:53 mark (video was positioned still at the 02:53 mark). In this right hand that you're holding—it appears that there's an object in your hand. Are you holding any—as far as you can remember—

PO Trim: You're saying it's an object, sir?

Inv. O'Shea: I'm saying that's what the video appears to show. And so I'm giving you the opportunity to say, that's what you see in the video, you see something different in the video, you can't tell—and also what you independently remember doing during the incident.

PO Trim: I can't—I can't tell, to be honest.

Inv. O'Shea: Okay, so it was alleged—it was alleged that in this moment, you're actually pointing a firearm at him. Did that happen?

PO Trim: Not that I recall, sir, to be honest.

Inv. O'Shea: Okay, and when you say, "Not that I recall," does that mean you don't know—you can't remember one way or the other and it's possible? Or you're definitively saying you did not do that?

PO Trim: I'm saying I don't recall.

The NYPD categorically prohibits officers from intentionally making a false official statement, which is defined as "an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made." A material fact is defined as "a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail. Statements made during an official CCRB interview are covered by this Procedure. NYPD Patrol Guide Procedure 203-08 (Board Review 29). Intentionally making a false official statement regarding a material matter "will result in separation from the Department, absent extraordinary circumstances," as determined by the Police Commissioner on a case-by-case basis.

Patrol Guide Procedure 203-08 further states, "When a member of the service is afforded an opportunity to recollect with the benefit of credible evidence, and the member makes a statement consistent with the evidence, the member's prior statement will not be considered a false statement." The NYPD will not bring false official statement charges when, "as opposed to creating a false description of events, the member of the Department merely pleads not guilty in a criminal matter, or merely denies a civil claim or an administrative charge of misconduct."

§ 87(2)(g)

As explained above, the evidence shows that PO Trim raised his gun above his hip and pointed his gun at § 87(2)(b) through the car window. PO Trim did not just hold his gun down at his hip as he claimed. Whether PO Trim pointed his gun at § 87(2)(b) as alleged is a material fact in this case, as it was a specific allegation pleaded against PO Trim at the time of his CCRB interview. § 87(2)(g)

§ 87(2)(g)

PO Trim's version of events worked to portray his conduct as less excessive and more justifiable, both because pointing a gun at a civilian is a more significant action than merely drawing a gun, and because an officer requires a lesser standard to justify drawing a gun than to justify pointing a gun at a civilian. § 87(2)(g)

§ 87(2)(g)

PO Trim's central contention—that he only held his gun at his hip and therefore did not point it—first appeared in his nearly-contemporaneous memo book entry about the incident, when the incident was freshest in his memory. PO Trim then repeatedly offered that version of events during his CCRB interview, and even specifically testified that he kept the gun pointing down toward the ground. PO Trim maintained his version of events first in his initial narrative, again upon follow-up questioning, and even after being shown video footage that contradicted his testimony.

Moreover, after reviewing the video evidence multiple times, PO Trim did not amend his

prior testimony such that it was consistent with the evidence. Instead, he maintained that he did not point his gun at § 87(2)(b) and he questioned whether the footage showed him drawing his gun and reaching it into the vehicle. At the very end, PO Trim qualified his denial by adding, "Not that I recall." In so doing, he still did not alter his testimony such that it was consistent with the evidence.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Det. Parkinson has been a member of service for 17 years and has been named a subject in 25 other CCRB complaints and 59 other allegations, none of which was substantiated. § 87(2)(g)
- PO Trim has been a member of service for seven years and has been named a subject in five other CCRB complaints and nine other allegations, none of which was substantiated. § 87(2)(g)
- Lt. Guida has been a member of service for 14 years and has been named a subject in 17 other CCRB complaints and 69 other allegations, of which three were substantiated:
 - CCRB case #201707882 involved substantiated allegations of frisk, search of person, and vehicle search against Lt. Guida, § 87(2)(g), § 87(4-b). The Board recommended Charges. The frisk allegation was dismissed at APU, but Lt. Guida was found guilty at APU of the search of person and vehicle search. He forfeited five vacation days.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of February 26, 2020, the NYC Office of the Comptroller has no record of any Notice of Claim from § 87(2)(b) regarding this incident (**Board Review 31**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 05

Investigator:	<u>Conor S. O'Shea</u>	<u>Investigator Conor S. O'Shea</u>	<u>July 1, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>July 2, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date